

## **REMARKS**

In the Office Action, Claims 1-23 were examined and stand rejected. In response to the Office Action, Claims 1-3, 6, 9, 16-13 and 21 are amended, Claims 4, 12 and 19 are cancelled and no claims are added. Applicant respectfully requests reconsideration of pending Claims 1-3, 5-11, 13-18 and 20-23 in view of the following remarks.

### **I. Double Patenting Rejection**

The Examiner rejects Applicant's invention under the provisional obviousness-type double patenting rejection as not patentably distinct from the claimed inventions of co-pending U.S. Patent Application No. 09/941,433, although the conflicting claims are not identical. Applicant holds in abeyance this rejection until such time as the claims on which the rejection is premised are granted.

### **II. Claims Rejected Under 35 U.S.C. §112**

The Examiner rejects Claims 1, 9 and 16 and intervening claims under 35 U.S.C. §112, first paragraph for failing to describe the manner in which data is compiled/predicted on the unreported factors and for failing to specify what the unreported factors are. Applicant respectfully traverses this rejection.

The Examiner rejects Claims 1, 9 and 16 and intervening claims under 35 U.S.C. §112, second paragraph for being unclear to the Examiner how data is compiled/predicted on the unreported factors and what the unreported factors are. Applicant respectfully traverses this rejection.

In response to the Examiner's 35 U.S.C. §112, first paragraph rejection and second paragraph rejection of Claims 1, 9 and 16, Applicant has amended Claims 1, 9 and 16 to overcome the §112, first paragraph and second paragraph rejections of the claims. Claim is representative of such amendments. Representatively, Claim 1, as amended, recites:

compiling data on factors that cause data transmission errors;  
employing error correction on data to be transmitted, based on at least the  
compiled data factors; and  
transmitting the data to be transmitted to at least one receiver.

As indicated by amended Claim 1, which is representative of the amendments to Claims 9 and 16, reference to predicting unreported factors and compiling data on the unreported factors is omitted from the pending claims. Accordingly, Applicant respectfully submits that Claims 1, 9 and 16, as amended, as well as any intervening dependent claims, are adequately supported by the specification and particularly point out and distinctly claim the subject matter, which Applicant regards as the invention. Therefore, Applicant respectfully requests that the Examiner reconsider

and withdraw the §112 first paragraph and second paragraph rejection of Claims 1, 9 and 16, as well as the intervening dependent claims.

Furthermore, Applicant respectfully submits that the above-recited features of Claims 1, 9 and 16 are neither taught nor suggested by the references of record. Consequently, Applicants respectfully request that the Examiner allow pending Claims 1-3, 5-11, 13-18 and 20-23.

### **CONCLUSION**

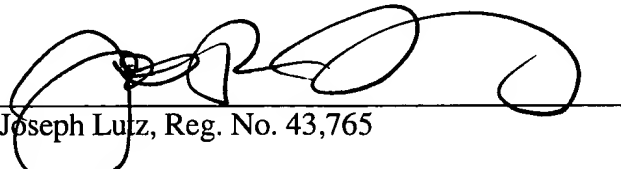
In view of the foregoing, it is submitted that Claims 1-3, 5-11, 13-18 and 20-23 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

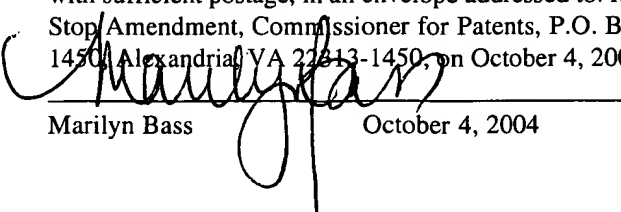
Dated: October 4, 2004

By:   
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### **CERTIFICATE OF MAILING:**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 4, 2004

  
Marilyn Bass

October 4, 2004